

Being Sued

It's not unusual to be sued. Thousands of people in the United States are named in lawsuits every day. The suits may result from a slip and fall on your sidewalk, a fender-bender car accident or just a misunderstanding about the payment of a debt. If you are sued, it's important to know what's involved and to understand your options.

How a Lawsuit Begins

When someone files a lawsuit, they must formally notify everyone being sued. This is usually done by delivering a document known as a summons. The lawsuit, or complaint, is generally included with the summons. In most jurisdictions a summons is served or delivered in person to the individual being sued, or to someone in the household, by a sheriff or a process server. Sometimes, especially in lawsuits involving smaller matters, a summons may be served through the mail, usually via registered or certified mail that requires a signed receipt indicating it was delivered. The summons tells the person being sued what they must do to protect their rights to defend the suit. It usually includes the deadline for filing an answer to the complaint. The complaint tells the person being sued why the action was brought against him or her and what the demands are.

Deciding Whether to Hire a Lawyer and How Lawyers Charge

If a lawyer is not otherwise provided for you and alternative dispute resolution (such as arbitration or mediation) is not an option, you must decide whether to hire a lawyer or to represent yourself. When deciding whether to hire a lawyer, it is generally best to look at the economics of the situation. How much are you being sued for, what is the likelihood you **will** win or lose in court, and how much **will** the lawyer cost? Many lawyers do not charge for an initial consultation, which may be a helpful opportunity to decide whether you need counsel or not.

Lawyers charge clients in various ways. Most attorneys charge on an hourly basis. Others charge a flat fee, although this is generally done only for the most routine cases. In either instance, most lawyers **will** ask for a retainer. A retainer is the amount you pay a lawyer to begin work on your case. In some cases a lawyer **will** proceed on a contingency fee, meaning the lawyer **will** receive a percentage of the award or settlement obtained on your behalf. This is rare when representing someone being sued, but could be used if you have a counterclaim, or lawsuit, against the person suing you. Regardless of the method of payment, you should always have a written fee agreement with a lawyer. When you try to decide about hiring a lawyer, keep in mind that fees vary from one lawyer to another, as does the quality of the services provided. You may want to speak to several lawyers before retaining one to represent you.

You also **will** have to pay a filing fee, which is the court's cost for you to file your response to the lawsuit, and there may be other costs in addition to your lawyer's fees.

You may decide to defend yourself in a lawsuit instead of retaining a lawyer, especially if it is a matter for small claims court. The small claims division of the Monmouth County Court hears only those cases where the money claimed is below \$2,000.00. In small claims court, procedures are generally less formal and the judge sometimes helps the parties resolve the matter. However, in some small claims courts, parties may have a lawyer and demand a formal trial.

The Stages of a Lawsuit

The steps involved in a lawsuit are different from one court system to another. Therefore, when you receive a summons and complaint, it is important to read them carefully. Usually, when a case is filed and you are served with a summons, a clock starts running. You have a limited time to respond to the lawsuit by filing a document known as an appearance and, in most cases, filing an answer to the complaint. If you fail to take these steps, you may lose your right to dispute the lawsuit and defend yourself.

After you have filed your appearance and answer, a date may be set for either a trial or a report to the court on the status of the case. In the meantime, the parties have the right to conduct discovery. Discovery is a process for each side to find out more about the issues in dispute. It may require people to answer questions under oath in a deposition or through interrogatories. A deposition is an oral examination, while interrogatories are written answers to questions.

In most courts, the judge **will** try to settle the case after discovery is completed and before the trial. The great majority of cases do settle without going to trial. When a civil case goes to trial, it may be heard and decided by a judge or a jury. A jury **will** decide the case if any of the parties asks for one. Usually there is an additional filing fee to demand a jury. If the case is decided against the person being sued, the judge or jury **will** also decide how much the damages are.

After a settlement or trial, a court order is written and signed by the judge. The order sets out the obligations resulting from the lawsuit. If there is an order for damages and money is owed, the order can be enforced by various collection methods such as wage assignment, where money is taken out of a paycheck, or the sale of assets such as a car or house.

If you lose a lawsuit, you might be able to bring an appeal to a higher court. However, appeals can be brought for only a limited number of reasons and are costly and time consuming.

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